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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,660	07/22/2003	Paul T. Van Gompel	659-1143	7010
757	7590	03/27/2007	EXAMINER	
BRINKS HOFER GILSON & LIONE P.O. BOX 10395 CHICAGO, IL 60610			CRAIG, PAULA L	
ART UNIT		PAPER NUMBER		
		3761		
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE		
3 MONTHS	03/27/2007	PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/624,660	VAN GOMPEL ET AL.
	Examiner Paula L. Craig	Art Unit 3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 11 September 2006 and 08 January 2007.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-16 and 28-33 is/are pending in the application.  
 4a) Of the above claim(s) 2-7,9-16 and 28-33 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1 and 8 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) 1-16 and 28-33 are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments in the response filed September 11, 2006 with respect to Claims 1 and 8 have been considered but are moot in view of the new grounds of rejection.

### ***Election/Restrictions***

2. Applicant's election without traverse of Species G, Claims 1 and 8, in the reply filed on January 8, 2007 is acknowledged. Claims 2-7, 9-16, and 28-33 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim.

### ***Claim Rejections - 35 USC § 102***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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5. Claims 1 and 8 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application No. 2004/0060648 to Thorson et al.

6. The applied reference has a common assignee and inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

7. For Claim 1, Thorson '648 teaches a method of manufacturing a disposable undergarment including moving a web of body panel material in a longitudinal machine direction, forming a cutout in the web and thereby removing a portion of the body panel material from the web (waste material 42 is cut out, Figs. 1-7 and paragraphs 1, 7, 10, 34 and 69). Thorson '648 teaches cutting the web of body panel material along the longitudinal machine direction and thereby forming a rear body panel web and a front body panel web, wherein cutting the web of body panel material includes forming first and second cut edges on the front and rear body panel webs, wherein the removed portion of the body panel material does not form any part of the front and rear body panel webs (removed portion of the body panel material is waste material 42, Figs. 1-7 and paragraphs 10, 34, and 69). Thorson teaches connecting a crotch member to each of the rear and front body panel webs, wherein the crotch member covers the

cutout (crotch member 50 covers at least part of the area where waste material 42 was removed, Figs. 1-7 and paragraphs 47, 64 and 69-73).

8. For Claim 8, Thorson '648 teaches the web having a body side surface and a garment side surface, and connecting the crotch member to each of the front and rear body panel webs includes connecting the crotch member to the garment side surface of each of the front and rear body panel webs (Figs. 4 and 5 and paragraph 64).

9. Claims 1 and 8 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application No. 2004/0122397 to Morman et al.

10. The applied reference has a common assignee and inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

11. For Claim 1, Morman '397 teaches a method of manufacturing a disposable undergarment including moving a web of body panel material in a longitudinal machine direction, forming a cutout in the web and thereby removing a portion of the body panel material from the web (waste material is cut out, Figs. 1-6 and paragraphs 1, 6-7, 26, and 64). Morman '397 teaches cutting the web of body panel material along the longitudinal machine direction and thereby forming a rear body panel web and a front

body panel web, wherein cutting the web of body panel material includes forming first and second cut edges on the front and rear body panel webs, wherein the removed portion of the body panel material does not form any part of the front and rear body panel webs (removed portion of the body panel material is waste material, Figs. 1-6 and paragraphs 64-66). Morman teaches connecting a crotch member to each of the rear and front body panel webs, wherein the crotch member covers the cutout (crotch member 50, paragraphs 44, 58, and 66).

12. For Claim 8, Morman '397 teaches the web having a body side surface and a garment side surface, and connecting the crotch member to each of the front and rear body panel webs includes connecting the crotch member to the garment side surface of each of the front and rear body panel webs (Figs. 1-6 and paragraph 58).

#### ***Claim Rejections - 35 USC § 103***

13. Claims 1 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Otsubo (US 2002/0151864).

14. For Claim 1, Otsubo '864 teaches a method of manufacturing a disposable undergarment, including moving a web of body panel material in a longitudinal machine direction, forming a cutout in the web, cutting the web of body panel material along the longitudinal machine direction and thereby forming a rear body panel web and a front body panel web, as indicated in the prior Office Action mailed June 8, 2006. Otsubo teaches cutting the web of body panel material including forming first and second cut edges on the front and rear body panel webs (Figs. 6 and 9 and paragraph 28). Otsubo

'864 teaches connecting a crotch member to each of the rear and front body panel webs, wherein the crotch member covers the cutout, as indicated in the prior Office Action mailed June 8, 2006. Otsubo '864 does not teach the cutout removing a portion of the body panel material from the web so that the removed portion of the body panel material does not form any part of the front and rear body panel webs. Applicant's specification does not disclose that having the removed portion of the body panel material not form any part of the front and rear body panel webs serves any stated purpose or solves any particular problem. Applicant's specification teaches that removing and discarding cutout material is wasteful (specification, page 1, lines 19-23). Applicant's specification teaches that cutouts, in which material is removed, perform the same function as slits in which no material is removed (specification, page 24, line 24, to page 25, line 8). Applicant's specification also teaches that a cutout in which material is removed performs a similar function as a cutout in which the material is left attached (specification, page 25, lines 7-10). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Otsubo '864 to include removing a portion of the body panel material from the web so that the removed portion of the body panel material does not form any part of the front and rear body panel webs.

15. For Claim 8, Otsubo '864 teaches the web having a body side surface and a garment side surface, and connecting the crotch member to each of the front and rear body panel webs includes connecting the crotch member to the garment side surface of each of the front and rear body panel webs (Figs. 6 and 9 and paragraph 29; note the

claim does not require a **direct** connection between the body side surface of the crotch member and the garment side surfaces of the front and rear body panel webs).

***Conclusion***

16. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paula L. Craig whose telephone number is (571) 272-5964. The examiner can normally be reached on 8:30AM-4:00PM M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Paula L Craig  
Examiner  
Art Unit 3761

PLC

TATYANA ZALUKAEVA  
SUPERVISORY PATENT EXAMINER  
